HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition no. 883 (S/S) 2006

Sher Singh Bisht S/o Sri Sohan Singh Bisht,
Resident of village-Banoliya, P.O. Kalika,
Tehsil- Ranikhet, District Almora. ----Petitioner.

Versus

1. State of Uttaranchal through Secretary,
   Irrigation Department Govt. of Uttaranchal, Dehradun,
2. Chief Engineer (north),
   Irrigation Department, Uttaranchal,
   Haldwani, Nainital,
3. Superintending Engineer Irrigation,
   Construction Division, Almora,
4. Executive Engineer Irrigation,
   Construction Division, Almora
5. Executive Engineer, Ranikhet,
   District Almora. ----Respondents.

Mr. Pankaj Purohit, learned Counsel for the petitioner,
Learned Standing Counsel for respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Pankaj Purohit, learned counsel for the petitioner and learned Standing Counsel for the respondents.

The present writ petition has been filed by the petitioners for the following reliefs:-

a. Issue a writ, order or direction in the nature of mandamus commanding the respondents to regularize the services of the petitioner on the post of driver pay-scale of Rs. 3050-4590 in the department keeping in view of his long standing engagement as a driver with the department as a daily wager for a period of 8 years

as well as his experience and qualifications to be appointed on the post of driver with the department,

b. Issue any suitable writ, order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case,

c. Award costs of the petition to the petitioner.

Learned counsel for the petitioner has submitted that the petitioner who is working on the post of Driver since 1997-1998 in the pay scale of 3050-4500 may be regularised in the Department keeping in view his long standing engagement as Driver. It is stated in para-8 of the writ petition that the petitioner is qualified to be appointed on the post of driver since he was engaged as Daily Wager in the year 1997-98 and, as such, he is entitled to be regularised on that post which is still vacant keeping in view the Regularization Rules known as U.P. Regularization for Daily Wages Appointments on Group 'C' posts (outside the purview of the U.P. Public Service Commission) Rules 1998. Under rule-4 of the said Rules it has been provided that a person appointed on or before 30.06.1998 directly on the Group 'C' post on daily wages is entitled for regularization.

But the said regularization rule is not applicable in the case of the petitioner as he was appointed in the year 1997-98 firstly, under rule-4 sub rule-1 it is provided that a person who has been directly appointed on daily wage basis on Group 'C' post in the Govt. Service before June 29, 1991 and is continuing in service as such on the date of commencement of these rules is entitled to be considered for regularization. Further, in view of the **Apex Court's decision in the case of State of Karnatake vs. Uma Devi, reported in 2006 (4) Supreme Court Cases, page-1,** this Court cannot pass order

for regularization of an employee who has not been appointed as per the Rules.

The writ petition is devoid of merits and is dismissed as such. No order as to costs

(M.M. Ghildiyal, J.)

August 8,2006:
NCM: